

PETITION FOR EXTENSION OF TIME UNDER 37 CFR 1.136(a)		Docket Number 57953/1180
<div style="display: flex; justify-content: space-between;"> <div style="width: 35%;"> <p style="margin: 0;">CERTIFICATE OF MAILING</p> <p style="margin: 0; font-size: small;">I hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage for first class mail in an envelope addressed to Mail Stop RCE, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450, on <u>October 27, 2003</u>.</p> <p style="margin: 0;">Signature: <u>Jo Ann Whalen</u></p> <p style="margin: 0;">Name: <u>Jo Ann Whalen</u></p> </div> <div style="width: 65%;"> <p style="margin: 0;">In re Application of Benfey et al.</p> <hr/> <div style="display: flex; justify-content: space-between;"> Application Number 09/578,827 Filed May 24, 2000 </div> <p style="margin: 0;">For SHORT-ROOT GENE, PROMOTER, AND USES THEREOF</p> <hr/> <div style="display: flex; justify-content: space-between;"> Group Art Unit 1638 Examiner C. Collins </div> </div> </div>		
<p>This is a request under the provisions of 37 CFR 1.136(a) to extend the period for filing a reply in the above identified application.</p> <p>The requested extension and appropriate entity fee are as follows (check time period desired):</p> <div style="display: flex; justify-content: flex-end; align-items: flex-start; width: 200px;"> <div style="text-align: right; padding-right: 10px;"> <input type="checkbox"/> One month (37 CFR 1.17(a)(1)) - (\$55/\$110) <input type="checkbox"/> Two months (37 CFR 1.17(a)(2)) - (\$210/\$420) <input type="checkbox"/> Three months (37 CFR 1.17(a)(3)) - (\$475/\$950) <input type="checkbox"/> Four months (37 CFR 1.17(a)(4)) - (\$740/\$1480) <input checked="" type="checkbox"/> Five months (37 CFR 1.17(a)(5)) - (\$1005/\$2010) </div> <div style="text-align: left; padding-left: 10px;"> \$ _____ \$ _____ \$ _____ \$ _____ \$ <u>1,005</u> </div> </div> <p><input checked="" type="checkbox"/> Applicant claims small entity status.</p> <p><input checked="" type="checkbox"/> A check to cover the fee is enclosed.</p> <p><input type="checkbox"/> Payment by credit card. Form PTO-2038 is attached.</p> <p><input type="checkbox"/> The Commissioner has already been authorized to charge fees in this application to a Deposit Account.</p> <p><input checked="" type="checkbox"/> The Commissioner is hereby authorized to charge any additional fees which may be required, or credit any overpayment, to Deposit Account Number <u>14-1138</u>. I have enclosed a duplicate copy of this sheet.</p> <p>I am the <input type="checkbox"/> applicant/inventor</p> <p style="margin-left: 40px;"><input type="checkbox"/> assignee of record of the entire interest. See 37 CFR 3.71. Statement under 37 CFR 3.73(b) is enclosed. (Form PTO/SB/96).</p> <p style="margin-left: 40px;"><input checked="" type="checkbox"/> attorney or agent of record.</p> <p style="margin-left: 40px;"><input type="checkbox"/> attorney or agent under 37 CFR 1.34(a). Registration number if acting under 37 CFR 1.34(a) _____.</p> <p>WARNING: Information on this form may become public. Credit card information should not be included on this form. Provide credit card information and authorization on PTO-2038.</p> <div style="display: flex; justify-content: space-between; margin-top: 20px;"> <div style="text-align: center;"> <p><u>October 27, 2003</u></p> <p>Date</p> </div> <div style="text-align: center;"> <p><u>Michael L. Goldman</u></p> <p>Signature</p> <p><u>Michael L. Goldman</u></p> <p>Typed or printed name</p> </div> </div> <p style="font-size: small; margin-top: 10px;">NOTE: Signatures of all the inventors or assignees of record of the entire interest or their representative(s) are required. Submit multiple forms if more than one signature is required, see below.</p>		
<input type="checkbox"/> Total of _____ forms are submitted.		

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<p>WARNING: Information on this form may become public. Credit card information should not be included on this form. Provide credit card information and authorization on PTO-2038.</p> <div style="display: flex; justify-content: space-between; margin-top: 10px;"> <div style="width: 45%; text-align: center;"> <u>October 27, 2003</u> Date </div> <div style="width: 45%; text-align: center;"> <u>Michael L. Goldman</u> Signature <u>Michael L. Goldman</u> Typed or printed name </div> </div>		
<p>NOTE: Signatures of all the inventors or assignees of record of the entire interest or their representative(s) are required. Submit multiple forms if more than one signature is required, see below.</p>		
<input type="checkbox"/> Total of _____ forms are submitted.		

<p align="center">REQUEST FOR CONTINUED EXAMINATION (RCE) TRANSMITTAL</p> <p>Subsection (b) of 35 U.S.C. § 132, effective on May 29, 2000, provides for continued examination of an utility or plant application filed on or after June 8, 1995. See The American Inventors Protection Act of 1999 (AIPA).</p>	Application Number	09/578,827
	Filing Date	May 24, 2000
	First Named Inventor	Philip N. Benfey
	Group Art Unit	1638
	Examiner Name	C. Collins
	Attorney Docket Number	57953/1180

This is a Request for Continued Examination (RCE) under 37 C.F.R. § 1.114 of the above-identified application.
NOTE: 37 C.F.R. § 1.114 is effective on May 29, 2000. If the above-identified application was filed prior to May 29, 2000, applicant may wish to consider filing a continued prosecution application (CPA) under 37 C.F.R. § 1.53(d) (PTO/SB/29) instead of a RCE to be eligible for the patent term adjustment provisions of the AIPA. See Changes to Application Examination and Provisional Application Practice, Final Rule, 65 Fed. Reg. 50092 (Aug. 16, 2000); Interim Rule, 65 Fed. Reg. 14865 (Mar. 20, 2000), 1233 Off. Gaz. Pat. Office 47 (Apr. 11, 2000), which established RCE practice.

1. **Submission required under 37 C.F.R. § 1.114**

a. ☐ Previously submitted

i. ☐ Consider the amendment(s)/reply under 37 C.F.R. § 1.116 previously filed on _____
(Any unentered amendment(s) referred to above will be entered).

ii. ☐ Consider the arguments in the Appeal Brief or Reply Brief previously filed on _____

iii. ☐ Other _____

b. ☒ Enclosed

i. ☒ Amendment

ii. ☐ Affidavit(s)/Declaration(s)

iii. ☐ Information Disclosure Statement (IDS)

iv. ☐ Submission of Formal Drawings

v. ☒ Petition for Five-Month Extension of Time

2. **Miscellaneous**

a. ☐ Suspension of action on the above-identified application is requested under 37 C.F.R. § 1.103(c) for a period of _____ months. (Period of suspension shall not exceed 3 months; Fee under 37 C.F.R. § 1.17(I) required)

b. ☐ Other _____

3. **Fees** The RCE fee under 37 C.F.R. § 1.17(e) is required by 37 C.F.R. § 1.114 when the RCE is filed.

a. ☒ The Director is hereby authorized to charge any additional fees which may be required, or credit any overpayments, to Deposit Account No. 14-1138

i. ☒ RCE fee required under 37 C.F.R. § 1.17(e)

ii. ☒ Extension of time fee (37 C.F.R. §§ 1.136 and 1.17)

iii. ☐ Other _____

b. ☒ Check in the amount of \$1,390.00 is enclosed

c. ☐ Payment by credit card (Form PTO-2038 enclosed)

SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT REQUIRED			
Name (Print/Type)	Michael L. Goldman	Registration No. (Attorney/Agent)	30,727
Signature	<i>Michael L. Goldman</i>	Date	October 27, 2003

CERTIFICATE OF MAILING OR TRANSMISSION	
I hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage for first class mail in an envelope addressed to: Mail Stop RCE, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450, on <u>October 27, 2003</u> .	
Signature:	<i>Jo Ann Whalen</i>
Name:	Jo Ann Whalen

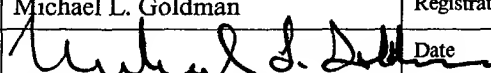
SEND TO: Mail Stop RCE
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

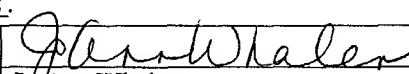
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(Any unentered amendment(s) referred to above will be entered).
 - ii. ☐ Consider the arguments in the Appeal Brief or Reply Brief previously filed on _____
 - iii. ☐ Other _____
 - b. ☒ Enclosed
 - i. ☒ Amendment
 - ii. ☐ Affidavit(s)/Declaration(s)
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 - ii. ☒ Extension of time fee (37 C.F.R. §§ 1.136 and 1.17)
 - iii. ☐ Other _____
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Signature:	
Name:	Jo Ann Whalen

SEND TO: Mail Stop RCE
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

FEE TRANSMITTAL FOR FY 2003

Patent fees are subject to annual revision.

☒ Applicant claims small entity status. See 37 CFR 1.27

TOTAL AMOUNT OF PAYMENT (\$1,390)

Complete if Known

Application Number 09/578,827
Filing Date May 24, 2000
First Named Inventor Philip N. Benfey
Examiner Name C. Collins
Art Unit 1638
Attorney Docket No. 57953/1180

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METHOD OF PAYMENT (check all that apply)

☒ Check ☐ Credit Card ☐ Money Order ☐ Other ☐ None

☐ Deposit Account:

Deposit Account Number 14-1138

Deposit Account Name Nixon Peabody LLP

The Commissioner is authorized to: (check all that apply)

☐ Charge fee(s) indicated below ☒ Credit any overpayments

☒ Charge any additional fee(s)

☐ Charge fee(s) indicated below, except for the filing fee to the above-identified deposit account.

FEE CALCULATION

1. BASIC FILING FEE

Large Entity Fee Code	Large Entity Fee (\$)	Small Entity Fee Code	Small Entity Fee (\$)	Fee Description	Fee Paid
1001	770	2001	385	Utility filing fee	
1002	340	2002	170	Design filing fee	
1003	530	2003	265	Plant filing fee	
1004	770	2004	385	Reissue filing fee	
1005	160	2005	80	Provisional filing fee	

SUBTOTAL (1) (\$ 0)

2. EXTRA CLAIM FEES FOR UTILITY AND REISSUE

Total Claims	Extra Claims	Fee from below	Fee Paid
6	-20** = 0	X 9	= 0
Independent Claims	3	-3** = 0	X 43 = 0
Multiple Dependent		X 145	= 0

Large Entity Fee Code	Large Entity Fee (\$)	Small Entity Fee Code	Small Entity Fee (\$)	Fee Description
1202	18	2202	9	Claims in excess of 20
1201	86	2201	43	Independent claims in excess of 3
1203	290	2203	145	Multiple dependent claim, if not paid
1204	86	2204	43	** Reissue independent claims over original patent
1205	18	2205	9	** Reissue claims in excess of 20 and over original patent

SUBTOTAL (2) (\$ 0)

**or number previously paid, if greater; For Reissues, see above

FEE CALCULATION (continued)

3. ADDITIONAL FEES

Large Entity Fee Code	Large Entity Fee (\$)	Small Entity Fee Code	Small Entity Fee (\$)	Fee Description
1051	130	2051	65	Surcharge - late filing fee or oath
1052	50	2052	25	Surcharge - late provisional filing fee or cover sheet
1053	130	1053	130	Non-English specification
1812	2,520	1812	2,520	For filing a request for <i>ex parte</i> reexamination
1804	920*	1804	920*	Requesting publication of SIR prior to Examiner action
1805	1,840*	1805	1,840*	Requesting publication of SIR after Examiner action
1251	110	2251	55	Extension for reply within first month
1252	420	2252	210	Extension for reply within second month
1253	950	2253	475	Extension for reply within third month
1254	1,480	2254	740	Extension for reply within fourth month
1255	2,010	2255	1,005	Extension for reply within fifth month
1401	330	2401	165	Notice of Appeal
1402	330	2402	165	Filing a brief in support of an appeal
1403	290	2403	145	Request for oral hearing
1451	1,510	1451	1,510	Petition to institute a public use proceeding
1452	110	2452	55	Petition to revive - unavoidable
1453	1,330	2453	665	Petition to revive - unintentional
1501	1,330	2501	665	Utility issue fee (or reissue)
1502	480	2502	240	Design issue fee
1503	640	2503	320	Plant issue fee
1460	130	1460	130	Petitions to the Commissioner
1807	50	1807	50	Processing fee under 37 CFR 1.17(q)
1806	180	1806	180	Submission of Information Disclosure Stmt
8021	40	8021	40	Recording each patent assignment per property (times number of properties)
1809	770	2809	385	Filing a submission after final rejection (37 CFR 1.129(a))
1810	770	2810	385	For each additional invention to be examined (37 CFR 1.129(b))
1801	770	2801	385	Request for Continued Examination (RCE)
1802	900	1802	900	Request for expedited examination of a design application

Other fee (specify) _____

*Reduced by Basic Filing Fee Paid

SUBTOTAL (3) (\$1,390)

CERTIFICATE OF MAILING OR TRANSMISSION [37 CFR 1.8(a)]

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☒ deposited with the United States Postal Service on the date shown below with sufficient postage as first class mail in an envelope addressed to: Mail Stop RCE, Commissioner for Patents, P. O. Box 1450, Alexandria, VA 22313-1450

☐ transmitted by facsimile on the date shown below to the United States Patent and Trademark Office at (703) _____

October 27, 2003
Date

Jo Ann Whalen
Signature

Jo Ann Whalen
Typed or printed name

SUBMITTED BY

Name (Print/Type) Michael L. Goldman
Signature

Registration No. 30,727
(Attorney/Agent)

Complete (if applicable)

Telephone (585) 263-1304

Date October 27, 2003